

AMENDMENT AFTER NON-FINAL ACTION

Appln. No. 10/729,763

Docket No. 442005-00122

REMARKS

Claims 1-18 were pending in the application. Claims 1-9 ("Invention I"), claims 10-12, ("Invention 2"), and claims 13-18 ("Invention III") stand subject to a restriction requirement under 35 U.S.C. § 121. Inventions II and I have been characterized as combination and subcombination. Inventions I and III have been characterized as product and process of use. Inventions III and II have been characterized as process of making and product made. The application further stands subject to an election of species requirement, the species having been characterized as species possessing a groove along an inner surface of the void former, and species possessing a groove along an outer surface of the void former.

Amendments to the Claims

Claim 1 has been amended to omit the previously recited flange and slot features. Support for this amendment may be found in original claims 10, 12, 13, and 18. The now-omitted features are instead introduced in amended claims 19 and 2. Claims 10 and 13 have been amended to require a void former having essentially the same limitations as those recited in claim 1. Support for this amendment may be found at p. 6 l. 6 to p. 7 l. 10. Claims 20 and 21 newly require a closed inner end that is tapered to facilitate insertion into plastic concrete. Support for this amendment may be found at p. 6 ll. 9-10. Claim 22 newly requires collapsing the body by applying a torsional force to the flange. Support for this amendment may be found at p. 7 ll. 8-10 and p. 8 ll. 14-16. Claim 23 newly requires positioning the void former by fastening the flange to a concrete form. Support for this amendment may be found at p. 8 ll. 12-21. Claims 3, 9, and 14 are cancelled without prejudice.

AMENDMENT AFTER NON-FINAL ACTION
Appln. No. 10/729,763
Docket No. 442005-00122

Restriction between Inventions

The Applicant elects examination of the claims associated with Invention I, which presently consist of claims 1-2, 4-8, and 19-20. We respectfully traverse the requirement for restriction between the combination (Invention II) and subcombination (Invention I) identified by the Office, as amended claims 10-12 no longer satisfy the requirement of two-way distinctness. MPEP § 806.05(c). We also respectfully note that the claims associated with Invention III are eligible for rejoinder. MPEP § 806.05(h).

Restriction between Species

The Applicant elects examination of the claims associated with species possessing a groove along an inner surface of the void former, which presently consist of claims 1-2, 4-8, 10-12, and 19-21. Claims 1-2, 4, 7-8, 10-12, and 19-21 are generic claims with regard to the basis of distinction.

Respectfully submitted,

/David R. Jaglowski/
David R. Jaglowski
Reg. No. 58,514

THOMPSON HINE LLP
P.O. Box 8801
Dayton, Ohio 45401-8801
Telephone: (937) 443-6600
Facsimile: (937) 443-6635
E-mail: IPGroup@ThompsonHine.com
486450.1